

Sponsor:	<u>Councilman Riddagh</u>
First Reading:	<u>06/20/11</u>
Second Reading:	<u>WAIVED</u>
Third Reading:	<u>07/05/11</u>
Ord. NO.:	<u>003-11</u>

**AN ORDINANCE TO ENACT A NEW CHAPTER 47 "OUTDOOR SMOKING REGULATIONS" TO THE TOWN CODE OF THE TOWN OF SMYRNA**

WHEREAS, the Town Council of the Town of Smyrna has determined that smoking in various outdoor locations in the Town of Smyrna is injurious to the public health, welfare, and safety of the citizens of and visitors to the Town, and constitutes a public nuisance, in that, among other things:

1. "Second-hand smoke" (sometimes referred to as "passive" or "involuntary" smoking) is harmful to human health and poses a variety of health risks ranging from cancer to emphysema to triggering asthma attacks;
2. Persons who do not smoke do not want to have themselves or their clothing and possessions subjected to the odor of tobacco smoke; and
3. Smokers often dispose of their cigarettes or cigar butts improperly, simply dropping them to the ground wherever they may be, and such discarded butts create litter and pollute the environment.

WHEREAS, the Town Council is mindful of the legislative determinations made by the Delaware General Assembly in enacting the Delaware Clean Indoor Air Act (16 Del. C. Chapter 29) and has determined that many of those same considerations should apply with equal force to certain limited outdoor areas;

WHEREAS, the Town Council recognizes that some balance should be struck between the rights of non-smokers and smokers by continuing to allow outdoor smoking in most outdoor public places in the Town;

BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the following ordinance be and hereby is enacted:

## Chapter 47 - Outdoor Smoking Regulations

### Section 47-1. Definitions.

"Smoking" means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

### Section 47-2. Prohibited smoking locations.

- (a) *Playgrounds.* Smoking is prohibited at, and within a 25-foot radius of the perimeter of, all children's playground areas and play equipment open to the public including, but not limited to, the playground areas at Smyrna Municipal Park, Green Meadows Park, and Sunnyside Park.
- (b) *Public Parks.* Smoking is prohibited at, and within a 25-foot radius of the perimeter of, the skateboard park and the Veteran's Memorial and gazebo at Smyrna Municipal Park.
- (c) *Lake Como.* Smoking is prohibited at the Lake Como beach areas lying between the security fence and gate to a point 25 feet from the shore line abutting such areas.
- (d) *Public Entrances at Town-owned Facilities.* Smoking is prohibited within a 25-foot radius from the center point of any entrance to any town-owned facility including, but not limited to, the following:
  - 1. Town Hall entrances located on Cummins Street and the Market Street Plaza;
  - 2. All entrances to the library;
  - 3. The Police Department entrance located on Glenwood Avenue;
  - 4. The Public Works Department building entrance located on Artisan Drive; and
  - 5. The Boys and Girls Club main entrance located on East Commerce Street.
- (e) *Private Entrances at Town-owned Facilities.* Smoking is prohibited within a 20-foot radius from the center point of any entrance to a town-owned facility that is used exclusively for employees to enter the building or facility, including pedestrian, garage, storage, and

service bay doors.

- (f) *Additional Locations.* The town council may periodically amend this ordinance to prohibit smoking at additional public places as needed to further the purpose and intent of this ordinance.

#### **Section 47-3. Signage required.**

No person shall be prosecuted for violation of this ordinance unless signs, readily visible to the public, are posted in appropriate places at the entrances to those areas where smoking is prohibited, which signs shall indicate that violations are subject to penalties.

#### **Section 47-4. Penalties.**

Any person observed violating this ordinance who has not been issued a written warning or citation hereunder within the preceding 4 months shall be issued a "written warning" by any Town Police Officer or Code Official. Any person who has received a written warning within the previous 4 months and is observed violating this ordinance shall be issued a citation for violating this offense. The penalty for a first citation shall be \$25.00. Any person who has received a citation within the previous 4 months and is again observed violating this ordinance shall be issued a citation for the subsequent violation of this ordinance, which shall include a penalty of \$50.00.

#### **SYNOPSIS**

This Ordinance prohibits smoking in specified outdoor public places. Smoking is prohibited within 25 feet of any children's playground areas, such as at Smyrna Municipal Park, Green Meadows Park, and Sunnyside Park. Smoking is prohibited within 25 feet of the skateboard park and the Veteran's Memorial and the gazebo at Smyrna Municipal Park. This ordinance will prohibit smoking inside the fence and gate at Lake Como extending to a point 25 feet from the shoreline. This ordinance prohibits smoking within 25 feet of public entrances to town-owned facilities, including Town Hall, the library, the Police Department, the Public Works Department, and the Boys and Girls Club. Smoking is prohibited within 20 feet of town-owned facility entrances used exclusively for employees. As is necessary, this ordinance allows the Town Council to add additional locations to

this ordinance where smoking will be prohibited. This ordinance requires signs be posted in locations where smoking is prohibited. This ordinance outlines penalties for those individuals caught violating this ordinance, including a written warning for a first violation, a \$25.00 penalty for a second violation, and a \$50.00 penalty for subsequent violations.

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This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on July 5, 2011.

ATTEST:

Regina J. Brown  
Council Secretary

Patricia A. Stambaugh  
Mayor

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This shall certify that the title and synopsis of this Ordinance was published in "The Smyrna Times" on July 13, 2011 and posted at the Town Hall on July 13, 2011.

So Certifies:

Valerie L. Hentag  
Town Clerk

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This shall certify that the title, effective date and synopsis of this Ordinance was published in "The Smyrna Times" on July 13, 2011 and posted at the Town Hall on July 13, 2011.

So Certifies:

Samuel H. Jones  
Town Manager